PRINCIPAL AND AGENT—CONTRACT FOR EXCLUSIVE AGENCY.—The plaintiff appointed the defendant its exclusive representative for the sale of its products in Minnesota and agreed to pay the defendant a commission on all accepted orders procured by him. While this contract was in force, a Minnesota dealer, from whom the defendant had tried, without success, to secure an order, went to Chicago and placed an order with the plaintiff's agent there for goods which were shipped to Minnesota. In an action by the plaintiff the defendant set up as a counterclaim the amount of his commission on the above order. *Held,* the defendant was not entitled to the counterclaim as the order was given outside of the defendant's territory. *Aluminum Products Co.* v. *Anderson* (Minn. 1917) 164 N. W. 663.

Cases do not often arise in which the courts are called upon to interpret the effect of a provision giving an agent an "exclusive agency" for the sale of goods in a territory. The parties usually stipulate more fully as to their respective rights, or there is some trade usage that is controlling. *Cf. McGann* v. *Ruggles-Coles, etc. Co.* (1914) 164 App. Div. 253, 149 N. Y. Supp. 698; *Garfield* v. *Peerless Motor Co.* (1905) 189 Mass. 395, 75 N. E. 695. When the courts have been called upon to interpret this provision for an "exclusive agency", standing by itself, their decisions have been in conflict. Some courts have held that the agent is given by this provision the sole right to make sales of goods that are to be used, to the principal's knowledge, in the agent's territory. *Illsley* v. *Peerless Motor Co.* (1913) 177 Ill. App. 459; *cf. Thompson-Huston Elec. Co.* v. *Berg* (1895) 10 Tex. Civ. App. 200, 30 S. W. 454. Other courts have held that its only effect is to give the agent the sole right to make sales, as the principal's agent, within that territory. *Haynes Auto Co.* v. *Woodhill Auto Co.* (1912) 163 Cal. 102, 124 Pac. 717; *cf. Golden Gate Packing Co.* v. *Farmers Union* (1880) 55 Cal. 606; *Gay Oil Co.* v. *Muskogee* (1911) 97 Ark. 502, 134 S. W. 639. The principal case, in following the latter authorities, would seem to be carrying out the fair meaning of the contract.

REAL PROPERTY—RESTRICTIVE COVENANTS — INTERPRETATION. — The plaintiff brought an action to enforce a restrictive covenant in a deed reciting that nothing but a single detached residence, to be used for residence purposes only, should be built. The property had been occupied by a Catholic sisterhood of twelve to fifteen women who held religious services, and occasionally initiated new members; in the invitations to these ceremonies, and in the telephone book, the building was referred to as the "Convent Chapel" and the "Ursuline Convent". *Held,* the covenant was not violated. *Hunter Tract Impr. Co.* v. *Corporation of the Catholic Bishop of Nisqually* (Wash. 1917) 167 Pac. 100.

Although a covenant that premises be used for "private residence purposes only" is violated by the erection of an apartment house, flat house, tenement, *etc.,* see *Koch* v. *Gorruflo* (1910) 77 N. J. Eq. 172, 75 Atl. 767, yet if the word "private" were omitted, such structures would be within the requirements of the covenant. *McMurtry* v. *Philipps Invest. Co.* (1898) 103 Ky. 308, 45 S. W. 96; *Tillotson* v. *Gregory* (1908) 151 Mich. 128, 114 N. W. 1025. Where, as in the principal case, a covenant provides for a single residence or a single dwelling only, there is a conflict of authority as to whether a building accommodating more than one family is within its terms. Since the general rule of construction is in favor of a free use of the property, *Schoonmaker* v. *Heckscher* (1916) 171 App. Div. 148, 157 N. Y.

Supp. 575, it appears that the better view is that the number of persons or families occupying the dwelling is immaterial in such a case. *Hutchison* v. *Ulrich* (1893) 145 Ill. 336, 34 N. E. 556; *contra, Harris* v. *Roraback* (1904) 137 Mich. 292, 100 N. W. 391 Where a covenant prohibited any building other than a dwelling house, a hospital was held to be a violation. *Smith* v. *Graham* (1914) 161 App. Div. 803, 147 N. Y. Supp. 773. A covenant that premises shall be used for residence purposes only would seem to have been violated by the erection of a church. *Cf. Hisey* v. *Eastminster Church* (1908) 130 Mo. App. 566, 109 S. W. 60; *Crofton* v. *St. Clement's Church* (1904) 208 Pa. 209, 57 Atl., 570. Although a convent may be more than a mere residence and embody within it a school or a church, the term does not necessarily connote more than a dwelling for a religious community. See *Scott Co.* v. *The Archbishop of Oregon* (Ore. 1917) 163 Pac. 88. Since the restriction is not against names but against uses, *cf. Smith* v. *Graham, supra*; *Scott* v. *The Archbishop of Oregon, supra,* the decision of the court in the principal case, in view of the peculiar facts, would seem to be correct.

SPECIFIC PERFORMANCE—ORAL CONTRACT TO DEVISE—SERVICES AS PART PERFORMANCE.—Intestate orally agreed with plaintiff's stepfather in 1865, that she would adopt plaintiff and make plaintiff her sole heir, in consideration of the control and custody of the child, and her services as a daughter. The plaintiff fully performed, but was never adopted, and no will was made. The plaintiff brought a bill to be declared the equitable owner of all the property left by intestate. Prior to 1905, in California, an oral contract to make a will was valid. *Held,* as the evidence clearly established the contract, plaintiff was entitled to the property. *Steinberger* v. *Young* (Cal. 1917) 165 Pac. 432.

The general rule is that a contract to devise realty to another or to make him an heir must be in writing, since it is a contract for the transfer of an interest in land, and covered by the Statute of Frauds. Gardner, Wills (2nd ed.) 68. But the California Civil Code did not require a writing in such a case, prior to the amendment of 1905. *Rogers* v. *Schlotterback* (1914) 167 Cal. 35, 138 Pac. 728. In most jurisdictions, however, an oral contract to devise property cannot be enforced, *Pond* v. *Sheean* (1890) 132 Ill. 312, 23 N. E. 1018, unless it is removed from the operation of the statute by part performance. *Gladville* v. *McDole* (1910) 247 Ill. 34, 93 N. E. 86. Putting the promisee in possession of the property in pursuance of the contract is a sufficient part performance. *Smith* v. *Pierce* (1892) 65 Vt. 200, 25 Atl. 1092. But the courts are divided as to whether the surrender of a child for adoption, together with filial services, is a sufficient part performance to remove the bar of the statute. Those cases which hold that it is, seem to proceed on the theory that the non-performance of the agreement would work a fraud on plaintiff, who could not be put in *statu quo, Sharkey* v. *McDermott* (1887) 91 Mo. 647, 4 S. W. 107; *Healy* v. *Healy* (1900) 55 App. Div. 315, 66 N. Y. Supp. 927; and, therefore, a trust is imposed on the land. *Van Dyne* v. *Vreeland* (1858) 12 N. J. Eq. 142. The better view and the weight of authority seem to be that performance by the child will not take the oral contract out of the statute, since such services are not clearly referable to the contract. *Snyder* v. *French* (1916) 272 Ill. 43, 111 N. E. 489; *Grant* v. *Grant* (1893) 63 Conn. 530, 29 Atl. 15; *Shahan* v. *Swan*